

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 918

Introduced by Senator Gaines

January 27, 2014

~~An act to amend Section 9250 of the Vehicle Code, relating to vehicles.~~ *An act to add Sections 14104.1 and 14106 to the Government Code, to amend Section 10120 of the Public Contract Code, and to add Section 172 to the Streets and Highways Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 918, as amended, Gaines. ~~Vehicle registration.~~ *Department of Transportation.*

(1) Existing law provides that the Department of Transportation has full possession and control of the state highway system and associated property. Existing law authorizes the department to purchase or rent any necessary supplies, instruments, tools, equipment, and conveniences as may be necessary for the proper discharge of its duties.

This bill would require the department to develop and implement an asset management program that will efficiently and effectively catalog the department's assets to ensure the most efficient usage and maintenance of those assets.

(2) Existing law, the State Records Management Act, imposes certain requirements on state agencies with respect to retention of records that have administrative, legal, or fiscal value.

This bill would impose additional record retention requirements on the Department of Transportation with respect to documents that are associated with construction projects. The bill would provide that the department shall be liable for any loss or damage to any party resulting

from failure to retain these documents, and would provide for a civil penalty of up to \$500 for each occurrence of a missing document.

(3) Existing law, the State Contract Act, generally provides for a contracting process by state agencies for public works of improvement via a competitive bidding process, under which bids are awarded to the lowest responsible bidder, with certain alternative bidding procedures authorized in certain cases. Existing law requires a department, as defined for purposes of the State Contract Act, including the Department of Transportation, to prepare full, complete, and accurate plans and specifications and estimates of cost before entering into any competitively bid contract for a public works project.

This bill would, with respect to competitively bid projects, require the department, before it commences the design of a project's plans, to first obtain full, complete, and accurate survey information of the field conditions existing in the location where construction of the project is to be performed. The bill would also require the department, when preparing the project's plans, to use state-of-the-art design software that allows for the preparation of full, complete, and accurate plans and that does not automatically fix errors in the design but rather requires the project designer to correct errors on an individualized, contemplative basis.

(4) Existing law requires the department to annually prepare and submit to the Governor a proposed budget, and to inform the California Transportation Commission of all pertinent assumptions and policy directions it intends to use in preparing the budget. Existing law also requires the department to develop budgeting, accounting, fiscal control, and management information systems in order to support its proposed budgets and to improve its program management, as specified.

This bill would require the department, in preparing the proposed budget, to include detailed information about outstanding contractor claims, as defined, relating to construction projects, and to reserve sufficient moneys in each budget to pay accumulated outstanding claims, as specified, and to report on those claims and reserves in budget-related reports.

Existing law requires the Department of Motor Vehicles to charge a registration fee of \$31 on every vehicle or trailer coach, as specified, registered prior to July 1, 2011, and to charge a registration fee of \$43 on every vehicle or trailer coach, as specified, registered on or after July 1, 2011. Existing law further provides that the proceeds collected

~~from increasing the registration fee from \$31 to \$43 be used only in connection with the regulation of vehicles.~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14104.1 is added to the Government Code,
2 to read:

3 14104.1. The department shall develop and implement an asset
4 management program that will efficiently and effectively catalog
5 the department's assets to ensure the most efficient usage and
6 maintenance of those assets.

7 SEC. 2. Section 14106 is added to the Government Code, to
8 read:

9 14106. (a) The requirements of this section shall be in addition
10 to the requirements for document retention applicable to all state
11 agencies pursuant to the State Records Management Act (Chapter
12 5 (commencing with Section 14740) of Part 5.5).

13 (b) (1) For purposes of this subdivision, "document" includes,
14 but is not limited to, a document subject to subdivision (a), email
15 messages and associated attachments, text messages, and
16 handwritten notes of any kind, including, but not limited to, diaries,
17 measurement notes, inspection notes, calculations, and meeting
18 minutes. "Document" also includes any other writing that would
19 normally be retained as part of a construction project file.

20 (2) The department shall retain, as part of a construction
21 project's file, all documents that are in any way related to the
22 design, construction, or administration, at every stage, of a
23 construction project. The documents shall be retained by the
24 department until final closeout and payment in full for each element
25 of the project is complete, and all outstanding claims relating to
26 the project have been resolved, including any available appeal.

27 (c) If the department fails to retain a document required to be
28 retained pursuant to subdivision (b) or as required by any other
29 applicable law, it shall be liable for any loss or damage to any
30 party resulting from that failure and shall also be subject to a civil
31 penalty of up to five hundred dollars (\$500) for each occurrence

1 of a missing document. An action under this subdivision for
2 recovery of a civil penalty may be brought by the Attorney General
3 or a district attorney.

4 SEC. 3. Section 10120 of the Public Contract Code is amended
5 to read:

6 10120. (a) Before entering into any contract for a project, the
7 department shall prepare full, complete, and accurate plans and
8 specifications and estimates of cost, giving such directions as will
9 enable any competent mechanic or other builder to carry them out.

10 (b) (1) Before the Department of Transportation commences
11 the design of a project's plans, it shall first obtain full, complete,
12 and accurate survey information of the field conditions existing
13 in the location where construction of the project is to be performed.
14 The Department of Transportation, when preparing a project's
15 plans, shall ensure that the plans match existing conditions and
16 shall use state-of-the-art design software that allows for the
17 preparation of full, complete, and accurate plans and that does
18 not automatically fix errors in the design but rather requires the
19 project designer to correct errors on an individualized,
20 contemplative basis.

21 (2) Upon award of a contract, the Department of Transportation
22 and the contractor shall engage in a joint postbid constructability
23 review to identify any remaining issues and seek to resolve them

24 SEC. 4. Section 172 is added to the Streets and Highways Code,
25 to read:

26 172. (a) As used in this section, "claim" includes, but is not
27 limited to, a claim with respect to a construction project that is
28 submitted through the notice of potential claims procedures, an
29 after contract acceptance claim, or a lien. This section applies to
30 a construction project regardless of the contracting method used
31 for the project.

32 (b) Each proposed budget prepared by the department shall
33 include detailed financial information about all outstanding claims
34 submitted by contractors, including passthrough claims submitted
35 by contractors on behalf of subcontractors. Each budget shall
36 contain a reserve of moneys sufficient to pay outstanding
37 accumulated claims for all construction projects, as determined
38 pursuant this section.

39 (c) For each construction project for which the department
40 receives a claim through the notice of potential claims procedures

1 *or an after contract acceptance claim, stating a monetary value,*
2 *moneys shall be reserved that are sufficient to pay, at a minimum,*
3 *60 percent of the claim's value as stated by the contractor, except*
4 *that if a claim is heard by the project's dispute resolution board*
5 *and a majority of the board finds in favor of the claimant, or if a*
6 *board of review, or the department's district director in the district*
7 *having jurisdiction of the project, finds in favor of the claimant,*
8 *moneys shall be reserved that are sufficient to pay 100 percent of*
9 *the claim's value as determined by the applicable board or district*
10 *director.*

11 *(d) The department shall continue to report, in its budget*
12 *documents and otherwise, the value of each outstanding claim as*
13 *determined pursuant to this section, and to reserve funding to pay*
14 *each claim as required by this section, until the claim is finally*
15 *resolved.*

16 ~~SECTION 1. Section 9250 of the Vehicle Code is amended to~~
17 ~~read:~~

18 ~~9250. (a) A registration fee of thirty-one dollars (\$31) shall~~
19 ~~be paid to the department for the registration of each vehicle or~~
20 ~~trailer coach of a type subject to registration under this code, except~~
21 ~~those vehicles that are expressly exempted under this code from~~
22 ~~the payment of registration fees. This subdivision applies to all of~~
23 ~~the following:~~

24 ~~(1) The initial or original registration, on or after January 1,~~
25 ~~2004, but before July 1, 2011, of any vehicle not previously~~
26 ~~registered in this state.~~

27 ~~(2) The renewal of registration of any vehicle for which the~~
28 ~~registration period expires on or after January 1, 2004, but before~~
29 ~~July 1, 2011, regardless of whether a renewal application was~~
30 ~~mailed to the registered owner prior to January 1, 2004.~~

31 ~~(b) A registration fee of forty-three dollars (\$43) shall be paid~~
32 ~~to the department for the registration of each vehicle or trailer~~
33 ~~coach of a type subject to registration under this code, except those~~
34 ~~vehicles that are expressly exempted under this code from the~~
35 ~~payment of registration fees. This subdivision applies to all of the~~
36 ~~following:~~

37 ~~(1) The initial or original registration, on or after July 1, 2011,~~
38 ~~of any vehicle not previously registered in this state.~~

39 ~~(2) The renewal of registration of any vehicle for which the~~
40 ~~registration period expires on or after July 1, 2011, regardless of~~

1 whether a renewal application was mailed to the registered owner
2 prior to July 1, 2011.
3 (e) ~~The registration fee imposed under this section applies to~~
4 ~~all vehicles described in Section 5004, whether or not special~~
5 ~~identification plates are issued to that vehicle.~~
6 (d) ~~Trailer coaches are subject to the registration fee provided~~
7 ~~in subdivision (a) or (b) for each unit of the trailer coach.~~
8 (e) ~~The amounts collected pursuant to the increase in the~~
9 ~~registration fee as specified in subdivision (b) shall be used only~~
10 ~~for costs incurred in connection with the regulation of vehicles,~~
11 ~~including administrative costs for vehicle registration.~~